

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE DEVELOPMENT REVIEW BOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

**TOWN OF SHELBURNE
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
February 17, 2016**

MEMBERS PRESENT: Mark Sammut (Chairman); Jeff Pauza, Jerry Storey, Jeff McBride, Mary Kehoe, Jeff Hodgson, Ian McCray, Alex von Stange. (Ty Parker was absent.)

STAFF PRESENT: Kaitlin Mitchell, DRB Administrator.

OTHERS PRESENT: Tracy Beaudin, Mark Fillion, Michael O'Brien, Jeremy Owens, Diane McCarthy, Erik Dalen, Patrick McKee, Chris Galipeau, Josh Dein, Brian Precourt.

AGENDA:

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (2/3/16)
4. Applications
 - Appeal, Notice of Violation, Champlain Housing Trust (A15-10)
 - Preliminary Plan, Mixed Use PUD, Shelburne Shopping Park, Precourt Investment Company, LLC
 - Preliminary Plan\Conditional Use, 39 Unit Building & Continuing Care Facility, 200 Wake Robin Drive, Wake Robin (SUB03-08R5\CU16-02)
5. Continued Discussion of Revised Rules of Discovery/Evidence
6. Other Business/Correspondence
7. Adjournment and/or Deliberative Session

1. CALL TO ORDER and ANNOUNCEMENTS

Mark Sammut called the meeting to order at 7 PM. There were no announcements.

2. PUBLIC COMMENT

None.

3. APPROVAL OF MINUTES

February 3, 2016

MOTION by Jerry Storey, SECOND by Ian McCray, to approve the minutes of February 3, 2016 with the following correction(s)/clarification(s):

Globally correct the spelling of "Dalen";

Page 11, top of page, sentence reading: "Chris Galipeau said the limit for the number of units..." – change "33% is conserved of the 90 acres" to "33% is required to be conserved under the PUD-R".

VOTING: unanimous (7-0); motion carried.

4. APPLICATIONS

The function of the Development Review Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the Board were sworn in.

A15-10: Appeal of Notice of Violation by Champlain Housing Trust, Inc.

MOTION by Mark Sammut, SECOND by Ian McCray, to continue A15-16 (appeal by Champlain Housing Trust) to March 16, 2016. VOTING: unanimous (7-0); motion carried.

SUB15-11\CU16-03\DR15-11: Preliminary Plan\Conditional Use\Design Review for re-subdivision of three lots into a one lot Mixed Use PUD in Shelburne Shopping Park to include a 5,000 s.f. addition and drive-thru pharmacy in the Village Center Mixed Use District, Village Design Review, Village Core, and Storm Water Overlay districts by Precourt Investment Company, LLC

Brian Precourt appeared on behalf of the application.

Submittals:

- Preliminary Plan Review Application received 1/14/16
- Conditional Use Application received 1/14/16
- Response Letters from Department Heads
- Preliminary Site Plan Set prepared by Donald J. Hamlin Consulting Engineers, Inc. titled “Precourt Investment Company, LLC Planned Unit Development-RDV Shelburne Shopping Park”, dated December 2015 and received 1/14/16
- Preliminary Plat prepared by Bradford L. Holden, dated January 5, 2016 and received 1/14/16
- Proposed Drugstore Expansion, dated March 30, 2015 and received 1/14/16
- Town of Shelburne Staff Report, dated 2/17/16

STAFF REPORT

The DRB received a written staff report on the application, dated 2/17/16. Kate Mitchell noted traffic numbers have been submitted.

APPLICANT COMMENTS

Brian Precourt briefly reviewed the proposed addition to the Rite Aid building connecting to Cucina. The drive-thru pharmacy will be on the southern side of the building. Mr. Precourt noted the following:

- Crosswalk has been adjusted.
- Dumpster has been moved to the side.
- Storm water detention pond is shown on the plans. The basin is in the back of the lot. Infiltration is not possible due to the fill on the site. The pond will treat an

- acre and a quarter of impervious surface. The development is creating 6,000 s.f. of new impervious surface. A state operational individual permit is required. The storm water pond will be owned by Precourt Investment, but the state will dictate what is needed so third party review is not necessary. Eventually a pond will need to be designed to handle the impervious surface in the front parking lot.
- The engineer will design the turning movements for trucks (template) and this will be submitted.
 - There are two hydrants on the site.
 - Deciduous trees behind Cucina will be planted.
 - Lots are being combined as new leases are introduced. The long term plan is to have one large lot.
 - Open space within the shopping park is not being designated, but there is open space.
 - Sarah Clayton still owns the supermarket, but Precourt Investment Company purchased the single family house.
 - Rite Aid has finally approved the design of the addition.
 - Signs still need review by Shelburne Historic Preservation & Design Review.
 - The kiosk will include a map of area attractions. (Mr. Precourt showed a facsimile of the map.)
 - Fiscal impact is the addition of up to \$1 million to the Grand List and no school impact.
 - Response to comments from town departments not yet received will be submitted by Final Plan review.
 - There is sewer capacity for the property. Water and sewer infrastructure inside the shopping park is privately owned.

There was discussion of the storm water third party review. Brian Precourt noted the town's storm water regulations mirror the state regulations. Also, third party review will essentially be a peer review by the engineers. The state storm water permit is 90 days out and then Final Plan review and approval from the DRB will need to be secured. Third party review will further delay the project which was hoped to begin this summer. Mr. Precourt suggested to allow the project to advance there could be a condition saying a building permit will not be issued by the town without the state storm water permit in hand.

Jeff Pauza asked about the parking waiver. Brian Precourt explained the three lots are the PUD. The uses in the three buildings determine the parking. There is plenty of parking in the parking lot out front, but this cannot be counted for the three lots. If the entire lot is considered there are 171 spaces excluding the supermarket, but 194 are needed so a

waiver is being requested. There will be no increase in the number of employees. The proposal is simply providing more space to the Rite Aid building.

Mark Sammut asked if Rite Aid will be closed during construction. Brian Precourt said Rite Aid corporate headquarters will not allow the store to be closed.

Ian McCray asked if Cucina will be enlarged. Brian Precourt said the storage building will be removed and the addition will encompass the storage space. No seating will be added. If Cucina wishes to add more seating they will have to secure all the necessary town approvals.

Jeff McBride noted the parking areas are not part of the scope of work and asked what will trigger storm water measures for these. Brian Precourt said greater than one acre of impervious surface is the trigger. Mr. McBride asked if there will be any change to the parking layout in the parking lot. Mr. Precourt said there will be directional markings on the pavement to the pharmacy drive-thru. Alex von Stange asked about the width of the drive-thru. Mr. Precourt said the width is 12' and the queue will hold three cars.

PUBLIC COMMENT

Tracy Beaudin mentioned her sister, Sally Smith, is the artist who designed the local attractions maps.

There were no further comments.

DELIBERATION/DECISION

Preliminary Plan\Conditional Use\Design Review, Mixed Use PUD, Shelburne Shopping Park, Precourt Investment Company, LLC (SUB15-11\CU16-03\DR15-11)

The DRB asked staff to work through storm water issues and clarification of the objectives with the third party review with Chris Robinson and Tom DiPietro of South Burlington. Mary Kehoe suggested requiring a copy of the state storm water permit application, rather than the permit itself to allow progress on the project review to continue.

MOTION by Mary Kehoe, SECOND by Jerry Storey, to close the hearing on the Mixed Use PUD proposal by Precourt Investment Company at Shelburne Shopping Park (SUB15-11\CU16-03\DR15-11). VOTING: unanimous (7-0); motion carried.

MOTION by Mary Kehoe, SECOND by Jerry Storey, to authorize the applicant, Precourt Investment Company, to prepare a Final Plan application for a Mixed Use

PUD including the addition of 5,000 s.f. to the building and a drive-thru pharmacy at 30 & 40 Shelburne Shopping Park with the following recommendations:

- 1. All utilities and roads should be reviewed and approved by the Water, Waste Water, Highway, Fire and Police Departments for comment prior to the submission of the Final Plan Application.**
- 2. The Applicant should provide a copy of the Vermont Storm Water Operational Permit Application with Final Plan Application.**
- 3. The applicant should provide a copy of the Individual Storm Water Permit Application and attachments or submit evidence that the proposed project is exempt.**

VOTING: unanimous (7-0); motion carried.

SUB03-08R5\CU16-02: Preliminary Plan\Conditional Use to amend the PUD-R to renovate existing facilities and add a 39 unit apartment building and a continuing care retirement facility at 200 Wake Robin Drive in the Residential District and Storm Water Overlay District by Wake Robin

Erik Daley, Diane McCarthy, Chris Galipeau, Jeremy Owens, and Patrick McKee appeared on behalf of the application.

Submittals:

- Project Description received 1/12/16
- Conditional Use Application received 1/12/16
- General Information Application received 1/12/16
- Site Plan Review Application 1/12/16
- Preliminary Plan Review Application received 1/12/16 and including project narrative, list of abutters, endangered species, necessary wildlife habitat, rare and irreplaceable natural areas mapping, waiver request, open space areas, and wetlands mapping
- Wake Robin Renovation and Expansion Project Summary of Applicable Planning Standards received 1/12/16
- Land Survey prepared by Civil Engineering Associates titled “Wake Robin Corporation, Bostwick Road, Shelburne, Vermont”, dated 6/1/15 and received 1/12/16
- Plans prepared by Perkins Eastman titled “Wake Robin 200 Wake Robin Drive Shelburne Vermont 05482”, undated and received 7/15/15
- Traffic Impact Study Technical Review Letter from CCRPC received 2/11/16
- Town of Shelburne Staff Reports (two reports), dated 2/3/16 & 2/17/16 respectively

STAFF REPORT

The DRB received a written staff report on the application, dated 2/17/16. Kate Mitchell reported an updated comment letter from the town Department Heads has been received as well as a letter from the school and comments from Shelburne Natural Resources Committee. There is not agreement between the town and applicant on the paving overlay. The DRB conducted a site visit prior to the DRB meeting.

Jerry Storey said he is troubled by the paving issue which seems arbitrary and ad hoc, not graded in precedent or written schedule. There has been a history of use of the road and it appears this is a set aside for the new use without a study of the impact being responsible for the remediation. The existing road is deteriorated at this point in time. Mr. Storey asked what other projects may appear before the DRB and have an impact on the road. If there is a vehicle overweight problem then the weight limits should be enforced, but it cannot be assumed the new use will cause damage to the road. The matter needs to be thought through fully and systematically and brought back for consideration. Kate Lalley noted there is no established baseline or impact fee only that Paul Goodrich feels larger projects should pay for damage they cause and address their impact which may mean the need for additional equipment for the town. Mary Kehoe cautioned against creating a dangerous precedent. Also, there does not appear to be a provision in the law to cover this. Kate Lalley pointed out the subdivision regulations say the applicant must satisfy comments from department heads. Mark Sammut said a policy and fee schedule must be implemented first before putting requirements on the applicant.

APPLICANT COMMENTS

Erik Dalen mentioned the following:

- Water tank that was discussed with the Water Commission - Wake Robin has not agreed with the design or cost of the tank which at this point would be built and sit empty. The water tank process is taking a long time and Wake Robin does not want the project prolonged for one item. Mark Sammut commented if the tank is eliminated or a smaller tank is required there will not be impact to the project layout.
- The letter from the town that contained more items to address than the previous letter, particularly dealing with fire hydrants - Wake Robin has been discussing the project with the town fire department for the past two and half years so it is surprising to be receiving additional comments now.
- Regarding storm water - Tom DiPietro from South Burlington visited the site and provided comments on storm water which will be addressed. There are designs for the 25 year storm and soil borings have been done.

There was mention of the homeowner documents relative to trails and Wake Robin being the sole owner of the property. Mark Sammut suggested submitting a letter explaining there is a single owner, manager, and operator of the property. Chris Galipeau said a summary will be included with the Final Plan Application.

Chris Galipeau reviewed the following:

- Open space and forested area - Phases 1 & 2 have 39 acres of 136 total acres. There are 85 forested acres and 12 acres of green field including prime ag. In Phase 3 of the development five acres of the forest will be used reducing the forested area to 80 acres. The requirement is 33% open space, but there will be 67% open space.
- Traffic numbers – CCRPC comments will be addressed by the traffic consultant and presented at Final Plan review.

Patrick McKee, Wake Robin CEO, expressed appreciation for the consideration on the road paving item. Regarding the water tank, the tank has been a burden to the project for the past two years. Wake Robin did not agree to the need or the cost of the tank and would not be the sole user. Discussion with the Water Commission does not appear to change anything and the offer by the town to help pay a portion of the cost was withdrawn by the town. Wake Robin only agreed to the tank due to the understanding the project would never move forward without the tank.

PUBLIC COMMENT

There were no comments from the public.

DELIBERATION/DECISION

Preliminary Plan\Conditional Use, 39 Unit Apartment Building and Continuing Care Retirement Facility, 200 Wake Robin Drive, Wake Robin (SUB03-08R5\CU16-02)

MOTION by Mary Kehoe, SECOND by Jerry Storey, to close the hearing on the Preliminary Plan by Wake Robin (SUB03-08R5\CU16-02) and direct staff to prepare a decision to indicate Preliminary Plan approval with the following conditions:

- 1. All items waived by the DRB until Final Plan Review must be submitted in order for a Final Plan Application to be considered complete.**
- 2. Storm water comments shall be addressed in the Final Plan Application.**
- 3. Traffic comments shall be addressed in the Final Plan Application.**
- 4. Department comments shall be addressed in the Final Plan Application.**
- 5. Any application for Final Plan approval shall be submitted within six months of the approval.**

VOTING: unanimous (7-0); motion carried.

5. DISCUSSION OF REVISED RULES OF DISCOVERY/EVIDENCE

There was discussion of rule #7 and making it clear to the applicant that the application is at risk of delay if witnesses are not available at the meeting or by teleconference to provide testimony. It was suggested wording can be added to the application to alert the applicant that written comment is accepted with the understanding that the DRB may want to hear from witnesses at the hearing and therefore the hearing may be delayed. A reminder of this could be added to the staff report on the application as well.

Mark Sammut will review the application template and add language indicating witnesses must be available to provide testimony at hearings.

Mary Kehoe will clarify with the Town Attorney the definition of “expedited hearing”.

6. OTHER BUSINESS/CORRESPONDENCE

None.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by Mark Sammut, SECOND by Mary Kehoe, to adjourn the meeting.

VOTING: unanimous (7-0); motion carried.

The meeting was adjourned at 8:42 PM.

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